

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 04-10010-PBS
)
 MATTHEW DWINELLS)

DEFENDANT'S MOTION IN LIMINE REGARDING TRANSCRIPTS
OF INSTANT MESSAGE COMMUNICATIONS WITH "MARIA011788"

The defendant Matthew Dwinells respectfully moves that this court limit the documentary evidence relating to on-line communications he allegedly had with the government agent using the name "Maria011788". The indictment states that these communications took place beginning on April 26, 2002 and ended on January 28, 2003. In total, the transcripts of these communications are at least 250 pages long.

Although the Government must undoubtedly present the substance of some of these communications in order to try to prove its case, presenting the totality of the transcripts runs afoul of Fed. R. Evid. 403, since the probative value of the bulk of these communications is minimal given their repetitive nature. Rule 403 permits a court to exclude evidence to avoid the "needless presentation of cumulative evidence." Fed.R.Evid. 403 Evidence is "cumulative" when it adds very little to the probative force of the other evidence in the case, so that if it were admitted its contribution to the determination of truth would be outweighed by its contribution to the length of trial. *United States v. Williams*, 81 F.3d 1434, 1443 (7th Cir. 1996).

Large portions of these transcripts are repetitive in nature; the content of a great deal of this material is cumulative. In the interest of conserving the time of the court, the parties, and the jury, this court should limit the amount of transcript material that will be admitted in evidence and provided to the jury.

MATTHEW DWINELLS

By his attorney,

/s/ Syrie D. Fried

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